

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

PATH AMERICA, LLC; PATH AMERICA  
SNOCO LLC; PATH AMERICA FARMER'S  
MARKET, LP; PATH AMERICA KINGCO  
LLC; PATH AMERICA TOWER, LP; PATH  
TOWER SEATTLE, LP; POTALA TOWER  
SEATTLE, LLC; and LOBSANG DARGEY,

Defendants, and,

POTALA SHORELINE, LLC; POTALA  
VILLAGE KIRKLAND, LLC; DARGEY  
DEVELOPMENT, LLC; DARGEY  
ENTERPRISES, LLC; and PATH OTHELLO,  
LLC,

Relief Defendants.

Case No. 2:15-cv-01350-JLR

JOINT STIPULATION AND ORDER FOR  
LIMITED RELIEF FROM ORDER  
APPOINTING RECEIVER RE: CLAIM OF  
LIEN

NOTED ON MOTION CALENDAR: Date of  
Filing per [Local Rules: 10(g), 7(d)1]

~~PROPOSED~~

**JOINT STIPULATION**

**PLEASE TAKE NOTICE** that Michael A. Grassmueck, the duly appointed receiver (the "Receiver") for Defendants Path America, LLC, Path America SnoCo, LLC, Path America Farmer's Market, LP, Path America KingCo, LLC, Path America Tower, LP, Path Tower Seattle, LP, and Potala Tower Seattle, LLC and Relief Defendants Potala Shoreline, LLC, and Potala Village Kirkland, LLC (collectively the "Receivership Entities"), and Pacific Coast Electrical Contractors, Inc. ("Pacific Coast"), and the Securities and Exchange Commission, by and through their counsel of record, hereby stipulate to limited relief from this Court's October 22, 2015 Order Appointing Receiver (Dkt. No. 88) as follows:

**WHEREAS** the Receiver was appointed receiver for the Receivership Entities pursuant to the Order Appointing Receiver on October 22, 2015 ("Appointment Order");

**WHEREAS** Section VI of the Order Appointing Receiver expressly restrains and enjoins all persons receiving notice of the Order from taking any action to interfere with the Receiver's efforts to take control, possession, or management of any property of the Receivership Entities, including by way of creating or enforcing a lien upon any such property;

**WHEREAS** property of the Receivership Entities includes the Potala Farmer's Market Project located at 2900 Grand Avenue, Everett, Snohomish County, Washington 98201 (the "Market Project"), which is currently in the final stages of construction;

**WHEREAS** prior to the appointment of the Receiver, Synergy Construction, Inc. ("Synergy") entered into a contract dated February 12, 2015 with Path America Farmer's Market LP and Path America Farmer's Market, LLP ("Potala Tower") to serve as the general contractor for the Market Project;

**WHEREAS** on September 14, 2015, Synergy and Pacific Coast entered into a subcontract under which Pacific Coast agreed to perform work as the electrical subcontractor on the Market Project for the lump sum amount of \$636,850.00.

1       **WHEREAS** Pacific Coast alleges that on or about September 8, 2015, Pacific Coast  
2 commenced construction on the Market Project and continued working on the project through the  
3 date of January 22, 2016;

4       **WHEREAS** Pacific Coast alleges that it has incurred costs of providing labor, materials,  
5 equipment, and furnished labor, in the amount of \$491,142.50<sup>1</sup> (including \$62,108.50 of  
6 retainage) in connection with work performed on the Market Project, and that such costs remain  
7 unpaid, and that it believes that Washington state law requires it to record a claim of mechanics'  
8 and materialmen's lien against the Market Project on or before April 21, 2016 (90 days following  
9 that last day of work) or risk losing that right under state law;

10       **WHEREAS** in his reasonable business judgment exercised in accordance with the duties  
11 of his appointment, the Receiver believes: (1) in light of Pacific Coast's past and possible future  
12 role of the electrical subcontractor for the Market Project; (2) Pacific Coast's ongoing cooperation  
13 in providing information to the Receiver; and (3) Pacific Coast's agreement herein that in entering  
14 this stipulation the Receiver is not agreeing to the timeliness, amount or basis for claim of lien, it  
15 is in the best interest of the receivership estate, to agree that Pacific Coast may record a claim of  
16 lien against the Market Project in the amount of \$491,142.50, and that such relief does not extend  
17 to permit amendments of such lien, the filing of an action to foreclose the lien or any other form of  
18 self-help, absent further order of this Court;

19       **WHEREAS** in agreeing to this Stipulation, the Receiver takes no position as to the  
20 validity of the claims Pacific Coast asserts against the Receivership Entities, including its claims  
21 precipitating its request to record a claim of lien against the Market Project, and expressly reserves  
22 his right to contest the timeliness, validity and/or amount of any lien recorded; and

23       **WHEREAS** under the circumstances unique to Pacific Coast and the Market Project, the  
24 Receiver believes, in his reasonable business judgment exercised in accordance with the duties of  
25 his appointment, limited relief from the Appointment Order is appropriate.

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28 <sup>1</sup> Pacific Coast has performed work in the amount of \$558,976.50 of which \$129,942.50 was  
previously paid.

1       **THEREFORE**, the Receiver and Pacific Coast hereby **STIPULATE** and **AGREE** as  
2 follows:

3       1. Pacific Coast shall be granted limited relief from the prohibitions set forth in the  
4 Appointment Order for the sole purpose of recording a claim of lien in Snohomish County of the  
5 State of Washington, against the Market Project in the amount of \$491,412.50;

6       2. Such relief from the prohibitions set forth in the Appointment Order shall be  
7 limited to Pacific Coast and shall not extend to any other creditor of the Receivership Entities;

8       3. The authorization for Pacific Coast to record a claim of lien does not include  
9 authorization for the recording of any amendments or revisions thereto, or the filing of any action  
10 to foreclose on the lien, and does not include any other relief from any other provisions of the  
11 Appointment Order, which shall remain in full force and effect until otherwise ordered by the  
12 Court;

13       4. Pacific Coast retains all other rights it currently has, including without limitation  
14 the right to petition the Court for further relief from this Court's October 22, 2015 Order  
15 Appointing Receiver (Dkt. No. 88) to, *inter alia*, amend its claim of lien and/or file a lawsuit to  
16 foreclose its claim of lien; and

17       5. The Receiver's agreement to such relief provided to Pacific Coast shall not be  
18 construed as taking any position as to the validity of any claim Pacific Coast may assert against  
19 the Receivership Entities, including its claims precipitating its request to record a claim of lien  
20 against the Market Project, and the Receiver expressly reserves all rights to challenge the validity  
21 and amount of the claim of lien, any petition, motion, or action filed by Pacific Coast in this or any  
22 other court, and of any claims Synergy may assert against the Receivership Entities.

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1 IT IS SO STIPULATED.

2 Dated: April 1, 2016

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By: /s/ David R. Zaro

David R. Zaro, Esq. #124334 (CA)  
(Pro Hac Vice Granted Oct 26, 2015)  
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MICHAEL A. GRASSMUECK

11 Dated: April 1, 2016

SCHLEMLEIN GOETZ FICK & SCRUGGS,  
PLLC

By: /s/ Robert L. Olson

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E-mail: rlo@soslaw.com  
Attorneys for Pacific Coast Electrical  
Contractors, Inc..

18 Dated: April 1, 2016

SECURITIES AND EXCHANGE  
COMMISSION

By: /s/ Susan F. LaMarca

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28 JOINT STIPULATION AND ORDER FOR LIMITED  
RELIEF FROM ORDER APPOINTING RECEIVER  
Case No. No. 2:15-cv-01350-JLR  
1039478.01/LA

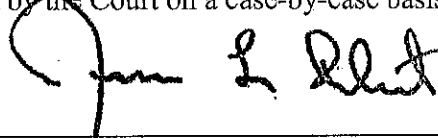
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**[PROPOSED] ORDER**

The Court, having read the Joint Stipulation For Limited Relief From Order Appointing Receiver (the "Stipulation") filed by Michael A. Grassmueck (the "Receiver"), court-appointed receiver for Defendants Path America, LLC, Path America SnoCo, LLC, Path America Farmer's Market, LP, Path America KingCo, LLC, Path America Tower, LP, Path Tower Seattle, LP, and Potala Tower Seattle, LLC and Relief Defendants Potala Shoreline, LLC, and Potala Village Kirkland, LLC (collectively the "Receivership Entities"), and Pacific Coast Electrical Contractors, Inc. ("Pacific Coast"), and good cause appearing, hereby **ORDERS** as follows:

1. The Stipulation is approved;
2. Pacific Coast is hereby **GRANTED** limited relief from the October 22, 2015 Order Appointing Receiver (the "Appointment Order") for the sole purpose of recording a claim of lien in Snohomish County in the State of Washington, as against the Market Project in the amount of \$491,142.50;
3. This relief from the Appointment Order granted to Pacific Coast is limited to Pacific Coast and does not extend to any other creditor of the Receivership Entities;
4. This relief from the Appointment Order granted to Pacific Coast to record a claim of lien does not authorize the recording of any amendments or revisions thereto, or the filing of any action to foreclose on the lien, and does not include any other relief from any other provisions of the Appointment Order, which shall remain in full force and effect unless otherwise ordered by this Court; and
5. This relief granted to Pacific Coast is not to be viewed by other creditors of the estate of the Receivership Entities as setting any precedent for the administration of creditor claims or the filing of liens, which shall be reviewed by the Court on a case-by-case basis.

Dated: April 1, 2016

  
Hon. James L. Robart  
Judge, United States District Court

**CERTIFICATE OF SERVICE**

I hereby certify that on April 1, 2016, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of the filing to all counsel of record.

Dated: April 1, 2016

/s/ David R. Zaro

David R. Zaro

*(Pro Hac Vice Granted October 26, 2015)*